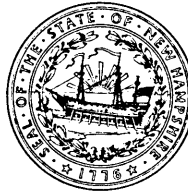


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JUN 22 1988

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April 12, 1988

Ms. Karen H. Ladd
Elections Assistant
Secretary of State
State House Annex
Concord, NH 03301

Re: Whether the Five-Day Period Established in Part II,
Article 44 of the New Hampshire Constitution for the
Return of Legislation by the Governor, Excludes Floating
Holidays

Dear Ms. Ladd:

You have asked that this office advise the Department of State whether floating holidays, designated as such in the State's collective bargaining agreement with the State Employees' Association, should be excluded from the five-day period established for the return of legislation by the Governor in Part II, Article 44 of the New Hampshire Constitution. In the opinion of this office, the establishment of floating holidays does not alter the principle articulated in Opinion of the Justices, 103 N.H. 402 (1961), that the five-day period set forth in Part II, Article 44 of the New Hampshire Constitution excludes Sundays and legal holidays.

The legal holidays observed in New Hampshire are determined by RSA 288:1. These holidays are:

Thanksgiving Day whenever appointed, the fourth Monday in April known as Fast Day, the first Monday in September known as Labor Day, the day on which the biennial election is held, January first, the third Monday in February known as Washington's Birthday, the thirtieth day in May known as Memorial Day, July fourth, the second Monday in October known as Columbus Day, the eleventh day in November known as Veterans Day and Christmas Day...

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Page 2

In Opinion of the Justices, 103 N.H. 402, 409-410 (1961), the New Hampshire Supreme Court held that the five-day period established in Part II, Article 44 of the New Hampshire Constitution excludes both Sundays and legal holidays.

The State's collective bargaining agreement entitles classified employees to nine holidays. Collective Bargaining Agreement, 1987-1989, ¶¶ 9.1 and 9.2. In addition to these holidays, each employee is authorized to designate "three 'floating holidays' of his/her choice per fiscal year." Collective Bargaining Agreement, 1987-1989, ¶ 9.7. The contractual agreement between the State and the State Employees' Association whereby certain legal holidays, RSA 288:1, are excluded from the list of holidays designated in the collective bargaining agreement, has no effect upon the Supreme Court's determination that legal holidays are excluded from the five-day period established in Part II, Article 44 for the return of legislation by the Governor. Opinion of the Justices, 103 N.H. at 409-410. Accordingly, all legal holidays designated as such in RSA 288:1 are excluded from the five-day period established in the Part II, Article 44, whether or not a state office is open by reason of the collective bargaining agreement.

I trust that the above information is responsive to your inquiry. Please let me know if I can be of any further assistance in this matter.

Very truly yours,



Emily Gray Rice
Assistant Attorney General

cc: The Honorable William M. Gardner
Secretary of State

87-055